

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FELIPE POLANCO DIAZ,

Plaintiff,

v.

MARIA TORCEDO,

Defendant.

No. 2:21-cv-00916-DC-CSK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION WITHOUT PREJUDICE

(Doc. Nos. 79, 80)

Plaintiff Felipe Polanco Diaz is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 19, 2025, the assigned magistrate judge issued findings and recommendations recommending this action be dismissed without prejudice based on Plaintiff's failure to prosecute. (Doc. No. 79 at 5.) Despite being given multiple extensions of time and being warned that failure to respond would result in the dismissal of this action for failure to prosecute, Plaintiff did not file an opposition or statement of non-opposition to Defendant Maria Torcedo's motion for summary judgment. (*Id.* at 1.) In applying the factors to determine whether the action should be dismissed for failure to prosecute, the magistrate judge found that the public's interest in expeditious resolution of litigation, the court's need to manage its docket, and the lack of availability of less drastic sanctions weighed in favor of dismissal. (*Id.* at 4–5.) The

1 magistrate judge further found that the public policy favoring disposition of cases on their merits
2 weighed against dismissal, and the risk of prejudice to the Defendant weighed neutrally. (*Id.*)
3 Accordingly, the magistrate judge concluded that this action should be dismissed without
4 prejudice. (*Id.* at 5.)

5 The pending findings and recommendations were served on the parties and contained
6 notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*)
7 On March 10, 2025, Plaintiff filed objections to the pending findings and recommendations.
8 (Doc. No. 80.) Plaintiff's objections do not provide a basis upon which to reject the findings and
9 recommendations.

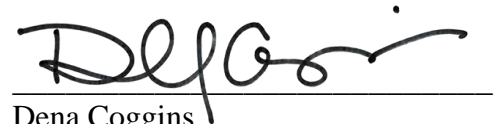
10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
11 *de novo* review of the case. Having carefully reviewed the entire file, including Plaintiff's
12 objections, the court concludes that the findings and recommendations are supported by the
13 record and by proper analysis.

14 Accordingly,

- 15 1. The findings and recommendations issued on February 19, 2025 (Doc. No. 79) are
16 ADOPTED in full;
- 17 2. This action is DISMISSED without prejudice, due to Plaintiff's failure to
18 prosecute this action; and
- 19 3. The Clerk of the Court is directed to close this case.

20
21 IT IS SO ORDERED.

22 Dated: July 21, 2025


Dena Coggins
United States District Judge